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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/583,130

06/16/2006

Asa Melhus

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23859

7590

03/30/2011

Ballard Spahr LLP

SUITE 1000

999 PEACHTREE STREET

ATLANTA, GA 30309-3915

EXAMINER

ROBERTS, LEZAH

ART UNIT

PAPER NUMBER

1612

MAIL DATE

DELIVERY MODE

03/30/2011

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/583,130	<b>Applicant(s)</b> MELHUS ET AL.	
	<b>Examiner</b> LEZAH ROBERTS	<b>Art Unit</b> 1612	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 31 January 2011.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-3,5-24,32,33,39 and 40 is/are pending in the application.
- 4a) Of the above claim(s) 2,3,6-9,14,16,17,22-24,32 and 33 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 5, 10-13, 15, 18-21, 39 and 40 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

Applicants' arguments, filed January 31, 2011, have been fully considered. Rejections and/or objections not reiterated from previous office actions are hereby withdrawn. The following rejections and/or objections are either reiterated or newly applied. They constitute the complete set presently being applied to the instant application.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

### ***Claims***

#### **Claim Rejections - 35 USC § 103 - Obviousness**

1) Claims 1, 4, 5, 10-13, 15 and 18-20 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Fabo (USP 4,921,704) in view of Katasuyama et al. (JP 2002-284604). Claim 4 is cancelled. Claim 19 was inadvertently left out of the rejection line but was rejected as supported by page 6 of the Non-Final Office Action mailed July 23, 2010. The rejection is further applied to claims 39 and 40.

#### **Applicant's Arguments**

Applicant argues one of skill in the art would not have been motivated to combine the xylitol and farnesol antibacterial/anti-mold agent of Katasuyama with the wound dressing of Fabo because farnesol cannot be used in a wound during the regeneration

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phase, as farnesol disturbs cell growth. Therefore it would not be suitable for use in a wound dressing as described by Fabo.

*Examiner's Response*

The Examiner disagrees and submits that Fabo specifically discloses the incorporation of antibacterials, or agents stimulating wound repair (col. 3, lines 34-37) into the wound care composition. Katasuyama et al. disclose the benefits of the combination of xylitol and farnesol, which is to suppress the growth of bacteria and fungus. Katasuyama also discloses this mixture may be used to treat wounds and burns. Therefore one of ordinary skill in the art would be motivated to use the mixture of xylitol and farnesol in the dressings of Fabo because it is an antibacterial agent that suppresses the formation of biofilm, which would inhibit infection in the wound. In regard to farnesol disturbing cell growth, Applicant has not provided any support for this assertion and Katasuyama et al. discloses the disclosed compositions comprising xylitol and farnesol are used for wound care.

In regard to claims 39 and 40, Fabo discloses the gels are hydrophobic and polyurethane gels may be used in place of the disclosed silicone gels (col. 3, line 42 to col. 4, line 2).

2) Claim 21 stands rejected under 35 U.S.C. 103(a) as being unpatentable over Fabo (USP 4,921,704) in view of Katasuyama et al. (JP 2002-284604) as applied to

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claims 1, 4, 5, 10-13, 15 and 18-20 above and new claims 39 and 40, in further view of Ward (US 5,099,832).

*Applicant's Arguments*

Applicant argues the claims are not obvious in view of Fabo and Katasuyama as argued above. The addition of Ward does not cure the deficiencies of Fabo and Katasuyama. Thus claim 21 is not rendered obvious by the combination of Fabo, Katasuyama and Ward.

*Examiner's Response*

This argument is not persuasive. In regard to the combination of Fabo and Katasuyama, see Examiner's Response above. Ward cures the deficiencies of claim 21 by disclosing why one of ordinary skill in the art would package the wound dressings of Fabo and Katasuyama in a sterile package. This is to inhibit the wound dressing from becoming contaminated with bacteria. Therefore the combination of references renders claim 21 obvious.

Claims 1, 5, 10-13, 15, 18-21, 39 and 40 are rejected.

Claims 2, 3, 6-9, 14, 16, 17, 22-24, 32 and 33 are withdrawn.

No claims allowed.

***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LEZAH ROBERTS whose telephone number is (571)272-1071. The examiner can normally be reached on 8:30 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Frederick F. Krass can be reached on 571-272-0580. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Lezah W Roberts/  
Examiner, Art Unit 1612

/Frederick Krass/  
Supervisory Patent Examiner, Art Unit 1612